

(iii) Any limitation on the ability of the PHA to obligate the amounts allocated for the PHA from the Capital Fund in a timely manner as a result of state or local law; or

(iv) Such other factors as HUD determines to be relevant.

(2) *Extension of obligation period.* HUD may extend the time period under paragraph (a) of this section for a PHA, for such period as HUD determines to be necessary, if HUD determines that the failure of the agency to obligate assistance in a timely manner is attributable to:

(i) Litigation;

(ii) Obtaining approvals of the federal government or a state or local government;

(iii) Complying with environmental assessment and abatement requirements;

(iv) Relocating residents;

(v) An event beyond the control of the PHA; or

(vi) Any other reason established by HUD by notice published in the FEDERAL REGISTER.

(3) *Disregard of minimal unobligated amounts.* HUD will disregard the requirements of paragraph (a) of this section with respect to any unobligated amounts made available to a PHA, to the extent that the total of such amounts does not exceed 10 percent of the original amount made available to the PHA.

(c) *Effect of failure to comply—(1) Prohibition of new assistance.* A PHA will not be awarded CFP assistance for any month during any fiscal year in which the PHA has funds unobligated in violation of paragraph (a) or (b) of this section.

(2) *Withholding of assistance.* During any fiscal year described in paragraph (c)(1) of this section, HUD will withhold all assistance that would otherwise be provided to the PHA. If the PHA cures its failure to comply during the year, it shall be provided with the share attributable to the months remaining in the year.

(3) *Redistribution.* The total amount of any funds not provided PHAs by operation of this section shall be allocated for PHAs determined to be high-performing under the Public Housing Assessment System (at 24 CFR part

902) (or the applicable performance evaluation program for public housing).

(d) *Expenditure of amounts—(1) In general.* A PHA must spend any assistance received under this part not later than four years (plus the period of any extension approved by HUD under paragraph (b) of this section) after the date on which funds become available to the PHA for obligation.

(2) *Enforcement.* HUD will enforce the requirement of paragraph (d)(1) of this section through default remedies up to and including withdrawal of the CFP funding.

(e) *Right of recapture.* Any obligation entered into by a PHA is subject to the HUD's right to recapture the obligated amounts for violation by the PHA of the requirements of this section.

[68 FR 45731, Aug. 1, 2003]

PART 906—PUBLIC HOUSING HOMEOWNERSHIP PROGRAMS

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AUTHORITY: 42 U.S.C. 1437z-4 and 3535(d).

SOURCE: 68 FR 1172, Mar. 11, 2003, unless otherwise noted.

Subpart A—General

§ 906.1 Purpose.

(a) This part states the requirements and procedures governing public housing homeownership programs involving sales of individual dwelling units to families or to purchase and resale entities (PREs) for resale to families carried out by public housing agencies (PHAs), as authorized by section 32 of the United States Housing Act of 1937 (42 U.S.C. 1437z-4) (1937 Act). A PHA may only transfer public housing units for homeownership under a homeownership program approved by HUD under this part, except as provided under § 906.3. This section does not govern new construction or substantial rehabilitation of units sold under this part. Such construction or rehabilitation is governed by the public housing

development and modernization regulations.

(b) Under a public housing homeownership program, a PHA makes available for purchase by low-income families for use as their principal residences public housing dwelling units, public housing developments, and other housing units or developments owned, assisted, or operated, or otherwise acquired by the PHA for sale under a homeownership program in connection with the use of assistance provided under the 1937 Act (1937 Act funds). A PHA may sell all or a portion of a property for purposes of homeownership in accordance with a HUD-approved homeownership program, and in accordance with the PHA's annual plan under part 903 of this title.

§ 906.2 Definitions.

Annual Contributions Contract (ACC) is defined in 24 CFR 5.403.

Low-income family is defined in the 1937 Act, 42 U.S.C. 1437a(b)(2).

Non-public housing unit means a housing unit that does not receive assistance under the 1937 Act (other than Section 8 assistance).

PHA Plan means the 5-year or annual plan required under section 5A of the 1937 Act, 42 U.S.C. 1437c-1, and its implementing regulations at 24 CFR part 903.

Purchase and Resale Entity (PRE) means an entity that acquires units for resale to low-income families in accordance with this part.

§ 906.3 Requirements applicable to homeownership programs previously approved by HUD.

(a) Any existing section 5(h) or Turnkey III homeownership program continues to be governed by the requirements of part 906 or part 904 of this title, respectively, contained in the April 1, 2002, edition of 24 CFR, parts 700 to 1699. The use of other program income for homeownership activities continues to be governed by agreements executed with HUD.

(b) A PHA may convert an existing homeownership program, or a specific number of the units in such a program, to a homeownership program under this part with HUD approval.